



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 5674-99
4 November 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show a more favorable type of discharge than the general discharge issued on 4 September 1975.

2. The Board, consisting of Mssrs. Silberman, Lightle, and Bishop, reviewed Petitioner's allegations of error and injustice on 3 November 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Marine Corps on 5 June 1974 at age 19. At that time he completed 12 years of formal education.

d. The record reflects that Petitioner received nonjudicial punishment on 5 August 1975 for breach of the peace, interfering with a sentry, and willfull disobedience of a lawful order.

e. On 21 July 1975 a psychiatric evaluation found that

Petitioner had an antisocial personlity disorder. The commanding officer recommended that Petitioner be separated by reason of a character and behavior disorder. After review by the discharge authority, Petitioner received a general discharge by reason of unsuitability due to a diagnosed character and behavior disorder on 4 September 1975.

f. In a case such as Petitioner's, character of service is normally based on conduct and proficiency averages, both of which are computed from marks assigned during periodic evaluations. Petitioner's conduct and proficiency averages were both 4.4. The minimum average marks required for a fully honorable characterization of service at the time of Petitioner's separation were 4.0 in conduct and 3.0 in proficiency.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board concludes that his general discharge should be recharacterized to honorable based on his satisfactory conduct and proficiency averages.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued an honorable discharge by reason of unsuitability due to character and behavior disorder on 4 September 1975 vice the general discharge actually issued on that date.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

c. That, upon request, the Veterans Administration be informed that Petitioner's application was received by the Board on 27 September 1999.

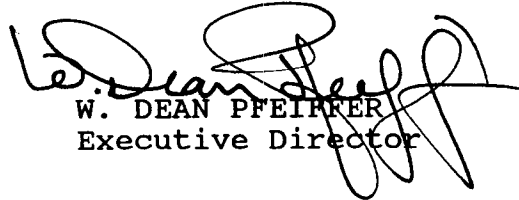
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director